



Express Mailing Label No. EL554221159US

PATENT

Attorney Docket No.: D6080-00001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Malmros et al.

Serial No.: 09/306,662

Filed: May 5, 1999

For: **METHOD OF IN SITU DIAGNOSIS BY SPECTROSCOPIC ANALYSIS OF
BIOLOGICAL STAIN COMPOSITIONS**

Certification Under 37 CFR 1.10

I hereby certify that this document (along with the enclosed Continued Prosecution Request (CPA) Transmittal and any documents referred to therein) is being deposited with the United States Postal Service on the date shown below with sufficient postage as "Express Mail Post Office to Addressee" Mailing Label Number EL554221159US to the following:

Assistant Commissioner for Patents
Box DAC
Washington, DC 20231

Dated: September 13, 2001

Elizabeth Orleman
Elizabeth Orleman

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OFFICE OF PETITIONS

**CONTINUED PROSECUTION APPLICATION (CPA)
REQUEST TRANSMITTAL**

Submit an original, and a duplicate for fee processing.

(Only for Continuation or Divisional applications under 37 CFR 1.53(d))

CHECK BOX, if applicable:

☐ DUPLICATE

SEP 13 2001
PATENT & TRADEMARK OFFICE

Address to:
**Assistant Commissioner for Patents
Box CPA
Washington, DC 20231**

Attorney Docket No.
of Prior Application

D6080-00001

First Named Inventor

Malmros

Examiner Name

S. Rawlings

Group Art Unit

1642

Express Mail Label No.

EL554221159US

This is a request for a ☒ continuation or ☐ divisional application under 37 CFR 1.53(d),

(continued prosecution application (CPA)) of prior application number **09 / 306,662**

Method of In-Situ Diagnosis by Spectroscopic Analysis of Biological
filed on **May 5, 1999**, entitled **Stain Compositions**

NOTES

FILING QUALIFICATIONS: The prior application identified above must be a nonprovisional application that is either: (1) complete as defined by 37 CFR 1.51(b), or (2) the national stage of an international application in compliance with 35 U.S.C. 371. Effective May 29, 2000, a CPA may only be filed in a utility or a plant application if the prior nonprovisional application was filed before May 29, 2000. A CPA may be filed in a design application regardless of the filing date of the prior application. See "Request for Continued Examination Practice changes to and Provisional Application Practice," Final Rule, 65 Fed. Reg. 50092 (Aug. 16, 2000); Interim Rule, 65 Fed. Reg. 14865 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office (Apr. 11, 2000).

C-I-P NOT PERMITTED: A continuation-in-part application cannot be filed as a CPA under 37 CFR 1.53(d), but must be filed under 37 CFR 1.53(b).

EXPRESS ABANDONMENT OF PRIOR APPLICATION: The filing of this CPA is a request to expressly abandon the prior application as of the filing date of the request for a CPA. 37 CFR 1.53(b) must be used to file a continuation, divisional, or continuation-in-part of an application that is not to be abandoned.

ACCESS TO PRIOR APPLICATION: The filing of this CPA will be construed to include a waiver of confidentiality by the applicant under 35 U.S.C. 122 to the extent that any member of the public who is entitled under the provisions of 37 CFR 1.14 to access to, copies of, or information concerning, the prior application may be given similar access to, copies of, or similar information concerning, the other application or applications in the file jacket.

35 U.S.C. 120 STATEMENT: In a CPA, no reference to the prior application is needed in the first sentence of the specification and none should be submitted. If a sentence referencing the prior application is submitted, it will not be entered. A request for a CPA is the specific reference required by 35 U.S.C. 120 and to every application assigned the application number identified in such request, 37 CFR 1.78(a).

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

1. ☐ Enter the unentered amendment previously filed on _____ under 37 CFR 1.116 in the prior nonprovisional application.
2. ☒ A preliminary amendment is enclosed.
3. This application is filed by fewer than all the inventors named in the prior application, 37 CFR 1.53(d)(4).
 - a. ☐ **DELETE** the following inventor(s) named in the prior nonprovisional application:

 - b. ☐ The inventor(s) to be deleted are set forth on a separate sheet attached hereto.
4. ☐ A new power of attorney or authorization of agent (PTO/SB/81) is enclosed.
5. Information Disclosure Statement (IDS) is enclosed:
 - a. ☐ PTO-1449
 - b. ☐ Copies of IDS Citations

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[Page 1 of 2]

Burden Hour Statement: This form is estimated to take 0.4 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box CPA, Washington, DC 20231.

EXAMINER OF RECORD: [REDACTED] DATE: [REDACTED]

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

CLAIMS	(1) FOR	(2) NUMBER FILED	(3) NUMBER EXTRA	(4) RATE	(5) CALCULATIONS
TOTAL CLAIMS (37 CFR 1.16(c) or (i))	14	-20* =	0	x \$ _____ =	\$
INDEPENDENT CLAIMS (37 CFR 1.16(b) or (i))	3	-3** =	0	x \$ _____ =	
MULTIPLE DEPENDENT CLAIMS (if applicable) (37 CFR 1.16(d))				+ \$ _____ =	
				BASIC FEE (37 CFR 1.16)	\$355.00
				Total of above Calculations =	\$355.00
Reduction by 50% for filing by small entity (Note 37 CFR 1.27).					
* Reissue claims in excess of 20 and over original patent. ** Reissue independent claims over original patent.					TOTAL = \$355.00

6. ☒ Small entity status: Applicant claims small entity status. See 37 CFR 1.27.7. The Commissioner is hereby authorized to credit overpayments or charge the following fees to Deposit Account No. 04 - 1679:a. ☒ Fees required under 37 CFR 1.16.b. ☒ Fees required under 37 CFR 1.17.c. ☐ Fees required under 37 CFR 1.18.8. ☐ A check in the amount of \$ _____ is enclosed.9. ☐ Payment by credit card. Form PTO-2038 is attached.10. ☐ Applicant requests suspension of action under 37 CFR 1.103(b) for a period of _____ months (not to exceed 3 months) and the fee under 37 CFR 1.17(i) is enclosed.11. ☒ New Attorney Docket Number, if desired D6080-00001CPA*[Prior application Attorney Docket Number will carryover to this CPA unless a new Attorney Docket Number has been provided herein.]*12. a. ☐ Receipt For Facsimile Transmitted CPA (PTO/SB/29A)b. ☒ Return Receipt Postcard (Should be specifically itemized, See MPEP 503)13. ☒ Other: Petition for Revival under 37 CFR 1.137(b); copy of Notice of Improper Request for RCE; andStatement in Support of Petition to Revive Under 37 CFR 1.37(b)**NOTE:** *The prior application's correspondence address will carry over to this CPA UNLESS a new correspondence address is provided below.***14. NEW CORRESPONDENCE ADDRESS**☒ Customer Number or Bar Code Label**08933**or ☐ New correspondence address below*(Insert Customer No. or Attach bar code label here)*

Name	William H. Murray, Esquire				
	Duane, Morris & Heckscher LLP				
Address	One Liberty Place				
City	Philadelphia	State	PA	Zip Code	19103
Country	USA	Telephone	215-979-1000	Fax	215-979-1020

15. SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Name (Print /Type)

Gail A. Dalickas

Signature

Gail Dalickas

Registration No. (Attorney/Agent)

40,979

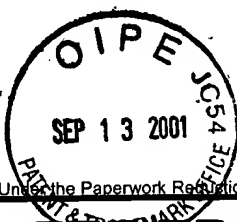
Date

September 13, 2001

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PTO/SB/17 (11-00)

Approved for use through 10/31/2002. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

FEE TRANSMITTAL

for FY 2001

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT

(\$) 975.00

Complete if Known

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Application Number 09/306,622

Filing Date May 5, 1999

SEP 17 2001

First Named Inventor Malmros

Examiner Name S. Rawlings

OFFICE OF PETITIONS

Group Art Unit 1642

Attorney Docket No. D6080-00001

METHOD OF PAYMENT

1. ☒ The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:

Deposit Account Number

04-1679

Deposit Account Name

Duane, Morris & Heckscher

- ☒ Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17

- ☒ Applicant claims small entity status. See 37 CFR 1.27

2. ☐ Payment Enclosed:

☐ Check ☐ Credit card ☐ Money Order ☐ Other

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description
101	710	201	355	Utility filing fee
106	320	206	160	Design filing fee
107	490	207	245	Plant filing fee
108	710	208	355	Reissue filing fee
114	150	214	75	Provisional filing fee

Fee Paid

355.00

SUBTOTAL (1) (\$) 355.00

2. EXTRA CLAIM FEES

Total Claims	Extra Claims	Fee from below	Fee Paid
14	-20** = 0	X	
3	-3** = 0	X	
Multiple Dependent			

Large Entity Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description
103	18	203	9	Claims in excess of 20
102	80	202	40	Independent claims in excess of 3
104	270	204	135	Multiple dependent claim, if not paid
109	80	209	40	** Reissue independent claims over original patent
110	18	210	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2)

(\$) 0

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Fee Code	Large Entity Fee (\$)	Small Entity Fee Code	Small Entity Fee (\$)	Fee Description	Fee Paid
105	130	205	65	Surcharge - late filing fee or oath	
127	50	227	25	Surcharge - late provisional filing fee or cover sheet	
139	130	139	130	Non-English specification	
147	2,520	147	2,520	For filing a request for ex parte reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	390	216	195	Extension for reply within second month	
117	890	217	445	Extension for reply within third month	
118	1,390	218	695	Extension for reply within fourth month	
128	1,890	228	945	Extension for reply within fifth month	
119	310	219	155	Notice of Appeal	
120	310	220	155	Filing a brief in support of an appeal	
121	270	221	135	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive - unavoidable	
141	1,240	241	620	Petition to revive - unintentional	
142	1,240	242	620	Utility issue fee (or reissue)	
143	440	243	220	Design issue fee	
144	600	244	300	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	
123	50	123	50	Processing fee under 37 CFR 1.17(q)	
126	180	126	180	Submission of Information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per property (times number of properties)	
146	710	246	355	Filing a submission after final rejection (37 CFR § 1.129(a))	
149	710	249	355	For each additional invention to be examined (37 CFR § 1.129(b))	
179	710	279	355	Request for Continued Examination (RCE)	
169	900	169	900	Request for expedited examination of a design application	
Other fee (specify)				Petition to Revive Under 37 CFR 1.37(b)	\$620.00
*Reduced by Basic Filing Fee Paid					
SUBTOTAL (3)					(\$)

SUBMITTED BY

Name (Print/Type) Gail A. Dalickas

Registration No. (Attorney/Agent)

40,979

Complete (if applicable)

Telephone

215-979-1849

Signature

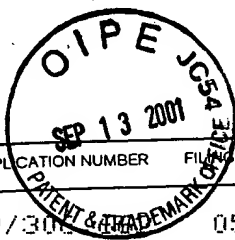
G. Dalickas

Date

09/13/01

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Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

26

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/300,000	05/05/99	MALMROS	M PRO-SE

AUG 23 2001

HM11/0820

ROBERT E. ROSENTHAL
DUANE, MORRIS & HECKSCHER LLP
A PENNSYLVANIA LIMITED LIABILITY PARTNER
ONE LIBERTY PLACE
PHILADELPHIA PA 19103-7396

RAWLINGS, S

DATE MAILED:

NOTICE OF IMPROPER REQUEST FOR CONTINUED EXAMINATION (RCE) 0/01

The request for continued examination (RCE) under 37 CFR 1.114 filed on 7-27-01 is improper for reason(s) indicated below:

REJECTED

- ☐ 1. Continued examination under 37 CFR 1.114 does not apply to an application for a design patent. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).
- ☐ 2. Continued examination under 37 CFR 1.114 does not apply to an application that was filed before June 8, 1995. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).
- ☒ 3. Continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed.
- ☐ 4. The request was not filed before payment of the issue fee, and no petition under 37 CFR 1.313 was granted. If this application has not yet issued as a patent, applicant may wish to consider filing either a petition under 37 CFR 1.313 to withdraw this application from issue, or a continuing application under 37 CFR 1.53(b).
- ☐ 5. The request was not filed before abandonment of the application. The application was abandoned, or proceedings terminated on _____. Applicant may wish to consider filing a petition under 37 CFR 1.137 to revive this abandoned application.
- ☐ 6. The request was not accompanied by the fee set forth in 37 CFR 1.17(e) as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.
- ☒ 7. The request was not accompanied by a submission as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.

A copy of this notice MUST be returned with any reply.

Direct the reply and any questions about this notice to:

Kim Owens, Examining Group 1642
(703) 30 6 - 4086

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